

Message Text

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TO SECSTATE WASHDC PRIORITY 4875

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CORRECTED COPY-TEXT (PARAS 1. & 2.)

E.O. 11652: GDS

TAGS: SHUM, CVIS (KOLEVA, IVA YANCHEVA), BU

SUBJECT: DIVIDED FAMILY CASE: IVA KOLEVA

REF: A) SOFIA 959; B) SOFIA 382; C) 77 SOFIA 1941

1. CONOFF DISCUSSED KOLEVA CASE JUNE 20 WITH BULGARIAN LAWYER FROM THE BULGARIAN LAW OFFICE FOR FOREIGN LEGAL MATTERS IN AN ATTEMPT TO DEVISE A CREDIBLE STRATEGY FOR POINTS RAISED REF A, PARA 2. EMBASSY HAS RECEIVED NO WORD FROM KOLEV'S RELATIVES IN SEVLEVO, THE COURT, OR THE KOLEVS THEMSELVES SINCE FEBRUARY. THUS, DISCUSSION WITH LAWYER WAS BASED ON STATUS OF CASE AS OF FEBRUARY COURT HEARING DATE.

2. THE QUESTION OF IVA'S PASSPORT APPLICATION REMAINS A MAIN OBSTACLE TO THE SUCCESSFUL RESOLUTION OF THE KOLEVA CASE. IT WAS THE LAWYER'S BELIEF THAT THE KOLEVS COULD EXECUTE A PASSPORT APPLICATION ON IVA'S BEHALF AT THE BULGARIAN EMBASSY IN WASHINGTON OR, ALTERNATIVELY, COULD PROVIDE A POWER OF ATTORNEY TO AN INDIVIDUAL IN BULGARIA IN ORDER TO FILE THE APPLICATION AT THE LOCAL PASSPORT IN SEVLEVO. THE LAWYER REVIEWED THE REQUIREMENTS FOR FILING BULGARIAN PASSPORT APPLICATIONS JUNE 20. THE EMBASSY HAS SUBSEQUENTLY LEARNED THAT, CONTRARY TO OUR PREVIOUS UNDERSTANDING, BULGARIAN PASSPORT REGULATIONS, WHILE

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REQUIRING THAT PASSPORT APPLICATIONS BE FILED PERSONALLY, DO NOT REQUIRE THE PASSPORT APPLICATION TO BE NOTARIZED BEFORE A BULGARIAN OFFICIAL. HOWEVER, A PROPERLY AUTHENTICATED AFFIDAVIT OF SUPPORT MUST ACCOMPANY EACH APPLICATION.

3. EMBASSY SUGGESTS THE FOLLOWING POSSIBLE MEANS OF PRESENTING A VALID PASSPORT APPLICATION TO THE BULGARIAN

AUTHORITIES ON BEHALF OF IVA. THE FIRST ALTERNATIVE WOULD BE FOR THE KOLEVS, ACCCOMPANIED BY THEIR LAWYER AND, IF NECESSARY, DEPARTMENT OFFICER FROM EUR/EE, TO PERSONALLY FILE THE PASSPORT APPLICATION AT THE BULGARIAN EMBASSY IN WASHINGTON. IF THE KOLEVS DO NOT WANT TO GO PERSONALLY TO THE BULGARIAN EMBASSY THEN WE SUGGEST THAT THEY FILE THE APPLICATION BY REGISTERED MAIL WITH THE BULGARIAN EMBASSY IN WASHINGTON AND SEND, AT THE SAME TIME, A SECOND APPLICATION DIRECTLY TO THE PASSPORT AUTHORITIES IN SEVLIEVO.

STILL ANOTHER ALTERNATIVE WOULD BE FOR THE KOLEVS TO FORWARD AN APPLICATION AND AFFIDAVIT, ALONG WITH LFE APPROPRIATE POWER OF ATTORNEY, TO JANCO KOLEV'S PARENTS FOR THEIR USE IN PERSONALLY FILING IVA'S PASSPORT APPLICATION. EMBASSY IS UNABLE TO JUDGE ADEQUATELY THE ADVISABILITY OF THIS COURSE OF ACTION GIVEN THE ABSENCE OF COMMUNICATION WITH THE KOLEV FAMILY (JANCO'S RELATIVES) IN SEVLIEVO AND OUR UNDERSTANDING OF THEIR APPARENT HESITANCE TO BECOME ACTIVELY INVOLVED IN CASE. EACH OF THE ABOVE POSSIBILITIES REQUIRES THE ACTIVE PARTICIPATION OF THE KOLEVS, SOMETHING THAT THE EMBASSY VIEWS AS MOST IMPORTANT SINCE THIS CASE IS TRULY THE RESULT OF A FAMILY DISPUTE. NONETHELESS, AND ONLY TO BE CONSIDERED AS A LAST RESORT, THERE REMAINS THE ALTERNATIVE THAT THE EMBASSY ITSELF COULD PRESENT A PASSPORT APPLICATION FOR IVA

IRECTLY TO MFA FOR CONSIDERATION. ANY EMBASSY PRESENTATION OF KOLEVA PASSPORT APPLICATION TO MFA WOULD BE CONFIDENTIAL

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DONE WITH REFERENCE TO A REQUEST TO THE EMBASSY FROM KOLEVS' LAWYER AS WELL AS THE GOB'S CLEAR AVOWAL (E.G. MARCH 1977 STATEMENT BY DCM KONSTANTINOV OF BULGARIAN EMBASSY IN WASHINGTON, REF C) THAT EXIT PERMISSION FOR IVA HAS BEEN GRANTED AND THAT THE ONLY OUTSTANDING REQUIREMENT IS THE FILING OF HER PASSPORT APPLICATION. THUS, EMBASSY PRESENTATION OF APPLICATION TO MFA WOULD BE PREDICATED UPON OUR SINVQRE DESIRE, OPENLY SHARED BY THE GOB, THAT THE KOLEVA CASE BE SUCCWSSFULLY RESOLVED.

4. CONOFF, DURING JULY 7 CALL ON BORIS POPOV, MFA CONSULAR DEPARTMENT OFFICER IN CHARGE OF DIVIDED FAMILY QUESTIONS, WAS DRAWN INTO DISCUSSION OF KOLEVA CASE. POPOV CLEARLY EXPRESSED GOB PERCEPTION THAT KOLEVA CASE NOT HUMANITARIAN CASE BUT ONE BASICALLY INVOLVING A FAMILY DISPUTE BETWEEN BULGARIAN CITIZENS AND, THEREFORE, ONE IN WHICH THE EMBASSY

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HAS NO BASIS FOR INTERVENTION. POPOV DENIED THAT THE SEVLIEVO COURT PROCEEDING HAD BEEN INITIATED BY THE COURT ITSELF AND INSISTED THAT IVA'S GRANDMOTHER INSTIGATED THE COURT HEARING IN AN ATTEMPT TO WIN CUSTODY OF THE CHILD. POPOV SEEMED SINCERELY PUZZLED BY CONOFF'S ASSERTION THAT GOB HAD GRANTED EXIT PERMISSION TO IVA AND THAT SHE HAD ONLY TO HAVE A PASSPORT APPLICATION FILED ON HER BEHALF IN ORDER TO DEPART BULGARIA TO JOIN HER PARENTS BUT STATED THAT HE WOULD CHECK INTO CONOFF'S ASSERTION THAT SUCH PERMISSION HAD BEEN REPEATEDLY DECLARED TO HAVE BEEN APPROVED BY GOB IN PAST. POPOV'S LACK OF FAMILIARITY WITH SPECIFICS IN SEVERAL OTHER CASES DISCUSSED AT MEETING (SEPTEL) INDICATES THAT GOB MAY NOT HAVE ITS POSITION WELL IN HAND ON KOLEVA CASE. NONETHELESS, THE GOB STRONGLY BELIEVES, AND HAS SO ARGUED, THAT THE KOLEVA CASE IS A BULGARIAN MATTER AND THE USG HAS NO LEGITIMATE INTEREST IN CASE. NONETHELESS, CONOFF STRONGLY EXPRESSED US INTEREST IN KOLEVA CASE IN DIVIDED FAMILY CONTEXT, CITING CONGRESSIONAL INTEREST, AND POINTED OUT GOB'S OWN STATEMENTS CONCERNING APPROVAL FOR IVA'S EXIT PERMISSION.

5. EMBASSY BELIEVES KOLEVS SHOULD USE THIS OPPORTUNITY TO PRESENT GOB AUTHORITIES WITH PASSPORT APPLICATION FOR IVA BY ONE OR MORE MEANS DESCRIBED IN PARA 3. IN CONVERSATIONS WITH LAWYER AS WELL AS MFA CONSULAR DEPARTMENT OFFICIAL, CONOFF GIVEN TO UNDERSTAND THAT POSTPONEMENT OF AUGUST 31 HEARING UNLIKELY. HOWEVER, IF GOB IS PRESENTED WITH VALID CONFIDENTIAL

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KOLEVA PASSPORT APPLICATION PRIOR TO HEARING, IT IS CONCEIVABLE THAT GOB WILL ACT TO APPROVE APPLICATION. IN ANY CASE, APPLICATION REPRESENTS KOLEVS' OWN ACTIVE INVOLVEMENT IN CASE IN BULGARIA AND GIVES EMBASSY SOME BASIS FOR DISCUSSING CASE WITH MFA IN LIGHT MORE FAVORABLE TO KOLEVS.

ONCE AGAIN, WE MUST POINT OUT THAT KOLEVA CASE CENTERS ON A FAMILY DISPUTE AND COULD BE RESOLVED IF PARENTS AND GRANDMOTHER WERE TO SINCERELY TRY TO WORK OUT AMICABLE SETTLEMENT. SECONDLY, KOLEVA CASE REMAINS A DISAGREEMENT BETWEEN BULGARIAN CITIZENS AND THE GOB, WITH THE EMBASSY HAVING ONLY A VERY TENUOUS BASIS FOR INTERVENTION.

6. NECESSARY PASSPORT APPLICATION FORMS AND TAX STAMPS HAVE BEEN OBTAINED BY EMBASSY AND WILLBEHAND-CARRIED TO DEPARTMENT (EUR/EE) ON JULY 10 BY DEPARTING EMBOFF SIMPSON. APPLICATIONS WHICH WOULD BE FILED IN BULGARIA (PER PARA 3) SHOULD BE FORWARDED BY AIR POUCH TO EMBASSY UNDER COVER LETTER FROM KOLEVS' U.S. CITIZEN LAWYER REQUESTING EMBASSY ASSISTANCE IN FOWRARDING KOLEVA APPLICATION DUE TO UNCERTAINTIES OF THE INTERNATIONAL MAIL SYSTEM. AN APPROPRIATE COVER LETTER TO THE SEVLIEVO PASSPORT OFFICE WRITTEN BY THE KOLEVS SHOULD BE INCLUDED WITH LETTER FROM KOLEVS' LAWYER TO EMBASSY. THE SAME SHOULD BE DONE FOR ANY APPLICATION, AFFIDAVIT, AND POWER OF ATTORNEY TO BE SENT TO KOLEV'S PARENTS. THIS APPROACH WOULD PROVIDE A BASIS FOR EMBASSY REBUTTAL OF POSSIBLE SUBSEQUENT GOB OBJECTION THAT THE EMBASSY OR DEPARTMENT IMPROPERLY INTERVENED IN A MATTER INVOLVING THE BULGARIAN GOVERNMENT AND ITS CITIZENS.

7. EMBASSY REQUESTS DEPARTMENT CONTACT KOLEVS AFTER RECEIPT OF MATERIALS VIA SIMPSON WITH AIM TO EXPEDITE PREPARATION OF APPLICATIONS AND AUTHENTICATED AFFIDAVITS. SIMILARLY, IT IS IMPORTANT THAT THE KOLEVS UNDERSTAND THAT THEY, TOO, CONFIDENTIAL

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MUST ACTIVELY PURSUE THEIR OWN INTEREST IN THIS CASE AND NOT RELY SOLELY ON DEPARTMENT AND EMBASSY EFFORTS ON THEIR BEHALF. EMBASSY WOULD ALSO APPRECIATE ANY INFORMATION THE

KOLEVS MIGHT BE ABLE TO PROVIDE CONCERNING THEIR COMMUNICATIONS WITH THEIR FAMILY IN SEVLIEVO, WITH THE COURT-APPOINTED LAWYER, OR WITH THE COURT ITSELF. AS INDICATED ABOVE, EMBASSY HAS RECEIVED NO NEW INFORMATION SINCE FEBRUARY COURT HEARING.

GARTHOFF

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